

FACTS

6. Within the last year, Defendants called Plaintiff numerous times on her cellular phone.

7. At all times mentioned herein, Defendants contacted Plaintiff using an automatic telephone dialing system (“ATDS” or “predictive dialer”) and/or by using an artificial or prerecorded voice.

8. When she answered the ATDS calls from Defendant, Plaintiff heard a pre-recorded message that stated, “Brian Stewart, you have a past due bill in the amount of \$109.00, press one (1) to speak with a live representative...”

9. Upon information and belief, Plaintiff never provided her consent to Defendant to be contacted on her cellular phone by means of an automated system.

10. On at least one occasion, Plaintiff followed Defendant’s prompt to be connected to a live representative.

11. During this conversation, Plaintiff requested Defendant cease calling her cellular phone.

12. Nonetheless, Defendant continued to place additional ATDS calls to Plaintiff.

13. If at one time Defendant had obtained Plaintiff’s express consent to place calls to her cellular telephone, it no longer had consent after Plaintiff requested that the calls cease.

COUNT I

**VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT –
47 U.S.C. § 227, et seq.**

14. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

15. Defendant contacted Plaintiff using an automatic telephone dialing system and/or by using a prerecorded or artificial message on a cellular telephone of 47 U.S.C. § 227(b)(1)(A)(iii).

16. Plaintiff either never provided express consent to Defendant to call her cellular telephone number, or Plaintiff revoked her consent to be contacted by Defendant on her cellular telephone by her repeated demands to cease calling her cellular telephone.

17. The calls from Defendant to Plaintiff were not placed for “emergency purposes” as defined by 47 U.S.C. § 227(b)(1)(A)(i).

18. Each of the aforementioned calls made by Defendant constitutes a negligent or intentional violation of the TCPA, including each of the aforementioned provisions of 47 U.S.C. § 227, *et. seq.*

19. As a result of each of Defendant’s negligent violations of the TCPA, Plaintiff is entitled to an award of \$500.00 in statutory damages for each call in violation of the TCPA pursuant to 47 U.S.C. § 227(b)(3)(B).

20. As a result of each of Defendant’s knowing and/or willful violations of the TCPA, Plaintiff is entitled to an award of treble damages in an amount up to \$1,500.00 for each and every violation of the TCPA pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff prays that judgment be entered against the Defendant:

1. Statutory damages of \$500.00 for each violation determined to be negligent pursuant to 47 U.S.C. § 227(b)(3)(B);
2. Treble damages for each violation determined to be willful and/or knowing pursuant to 47 U.S.C. § 227(b)(3)(C); and

3. Such other and further relief as may be just and proper.

TRIAL BY JURY DEMANDED ON ALL COUNTS

Dated: May 29, 2014

Respectfully submitted,



By _____

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